

January 30, 2007

Mr. Mark R. List, P. G.
Chief, Waste Discharge To Land Unit
California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670-6114

Subject: Comments On The Time Schedule Order (TSO) To Madison Service District (MSD)

Dear Mr. List:

Thank you for the opportunity to comment on the TSO.

I believe that, to be valid and binding, the TSO and all other RWQCB's orders should a) be based on solid grounds, b) not create, contribute or perpetuate unsafe and harmful conditions. The TSO, as it now stands, fails to meet these two (2) tests.

A. Not Based On Solid Grounds

The issues surrounding the Madison sewer system revolve around the following question: Does the MSD have adequate sewer capacity to fulfill its responsibility in compliance with laws and regulations?

The answer could be yes or no, depending on how the district's area of responsibility is defined. Is it, for instance, responsible to expand capacity to serve properties outside its legal boundaries? I do not think so. But the RWQCB saddles it with this responsibility by basing its orders on two (2) engineering studies, Laugenour and Meikle (LM) Engineering Study in 1994 and the recent DJH Engineering Study in 2005, that call for the acquisition of additional land to serve properties outside its boundaries.

What are the reasons for this conclusion?

Firstly, the LM study itself. On Page 3, it states that the expansion is "for expansion of wastewater facilities addressing the full build-out of the existing parcels WITHIN the District AND EXPANSION OF THE DISTRICT BOUNDARY recognizing additional development which may be prescribed by the County of Yolo with the review of the General Plan For the Madison community (capitalization is mine)".

Secondly, on Page 8 of the LM report, the study shows the area (Exhibit 1) it was planning for Exhibit 1). Exhibit 2 shows the map of the Madison Service District area based on the legal description in the official resolution creating the district. As can be seen, the area that LM was planning the expansion for is much larger than the district and includes large properties outside its boundaries.

Thirdly, the numbers in the study show that the 10-acre Phase 2 expansion is meant for properties outside the district. The current system of seven (7) ponds on 17 acres, after its Ph. 1 expansion in 1998, has a capacity of 49.47 acre-ft. (Appendix A-3 of the LM study). This capacity is adequate to

serve 255 dwelling units (RWQCB Amended Cease and Desist Order No. 94-062, Order No. 4, Page 4, and the draft TSO, Item 10, Page 2):

- 154 dwelling units in within the district
- 88 units in the migrant center and
- 13 new units allowed by the RWQCB after the Ph.1 expansion

But why would LM specify a 60% increase from 17 to 27 acres for the sewer ponds land area if it was only planning for a 13% increase in the number of units after the construction of 33 new units to build-out of parcels within the district? Clearly, LM recommended the 10-acre Phase expansion for properties outside the district. Clearly there is capacity for the parcels within the district since the actual effluent inflow is 79.5 gallons per day per capita, as measured by the new flow meter, is 42% less than the 137 gallons per day hypothetically assumed by LM.

How about the DJH Engineering 2005 study?

DJH's water balance report, which was included to support a CDBG Applications (Page 122) shows that at build-out, the maximum accumulated effluent is 14.46 acre-ft. which is only 1/3 the existing capacity of 49.47 acre-ft. By its own calculation, DJH Engineering states "By this water balance the ponds should be empty during the summer months. In fact, they are not". And so, DJH recommends the acquisition of 5 acres as spreading area. But why is there a need for additional land if the existing system is only 1/3 full?

But why the sewage spills and seeming lack of capacity? One likely answer would be stormwater infiltration of the sewer system. Both engineering studies allude to this factor but do not account for it in their calculations. DJH states that the January 2006 spill was due to the inflow to the system of 1,000,000 gallons of stormwater or the equivalent of the 20-day average inflow. The sewage spills occur long after the migrant workers are gone when there is drastic reduction in the effluent inflow. They occur in winter after heavy rains. They do not occur in summer when there is peak usage of the system due to the occupancy of the 88 dwelling units at the migrant center, which legally speaking are not part of the district.

In short, based on these studies, there is adequate capacity for the parcels WITHIN the district.

B. Harmful and Unsafe Conditions Due To The RWQCB Orders

The TSO calls for full compliance by 2012 or 23 years after it sent its first Notice of Violation to the district. During this long period of time, how much environmental harm has been created? Has the water supply been contaminated? What impacts have there been on the beneficial uses of the Yolo Bypass, and Sacramento River? There are no certain answers to these questions at this time. But what is certain is that we are being exposed to additional health and safety risks.

There have been real costs to the people within the Madison Service District. They have paid a lot for engineering and consulting services. Their monthly charges were raised 100% a few years ago. Still the sewage spills occur. Is it because the RWQCB orders are addressing the wrong priorities?

Another unfair thing that is happening is that property owners within the district, who have paid to build the system, are being required to expand the system and pay for the costs of serving properties outside the district. Furthermore, the DJH's proposed revenue plan places the full responsibility of repaying the loans made necessary to comply with RWQCB's orders to a few property owners who

have yet to build-out their parcels. Why single them out when compliance benefits everybody within the district? What about the property owners outside the district who are getting a free ride?

There are real lives affected by these studies and the RWQCB's orders. After my heart bypass operation in 2001, my doctor recommended that I slow down and avoid stressful situations. So we sold all our properties to buy the Madison land. To follow my doctor's recommendation, we planned to build on the land, subdivide the rest of the property, and sell the lots so we have financial resources to live on. If the subdivision of our land were completed during the recent real estate boom, we would have more financial resources to live on.

But due to the RWQCB's Cease and Desist Order, we could not develop our property. Instead we had to spend more time, efforts, funds on legal and engineering services to convince people that there is adequate capacity for our property. Instead of slowing down, I had to work as the Director of Housing Development for a non-profit organization. During my subsequent consultations with my doctor, he recommended many times that I should quit my job because of its impact on my health. My wife, a long-time registered nurse who took care of me while I recovered from the bypass surgery, also she had to work more hours in spite of her bad shoulders.

The county says that they are not the reason why we have not been able to develop our property. They said they would process the approval of our subdivision if the district gave us a letter stating that it will provide service to our property. The district, in turn, says it is not responsible and cannot give us the letter because of the RWQCB's Cease and Desist Order.

Who is responsible then? Is not RWQCB responsible for basing its orders on faulty recommendations? I think it is; the RWQCB has failed, in the case of Madison, to fulfill its responsibility. As a result, lives and property have been damaged.

Personally, what do we want to happen? We have waited patiently for five (5) years now. The TSO wants us to wait another seven (7) years for the district to achieve full compliance in 2012. Our health and safety has been subjected to needless stress and risks the last few years. We have lost significant financial value. At the very least, we want the RWQCB to tell the district to provide services to properties within the district, including ours, because there is adequate capacity for them and because these properties should have priority over those outside the district. We want the RWQCB to enable a fairer revenue plan. We want RWQCB to make the district focus on stopping the stormwater infiltration of the system to prevent more sewage spills.

Again, thank you for the opportunity. I can be contacted by email (jayreyes@comcast.net) or by telephone (510-865-8754), if you have any questions.

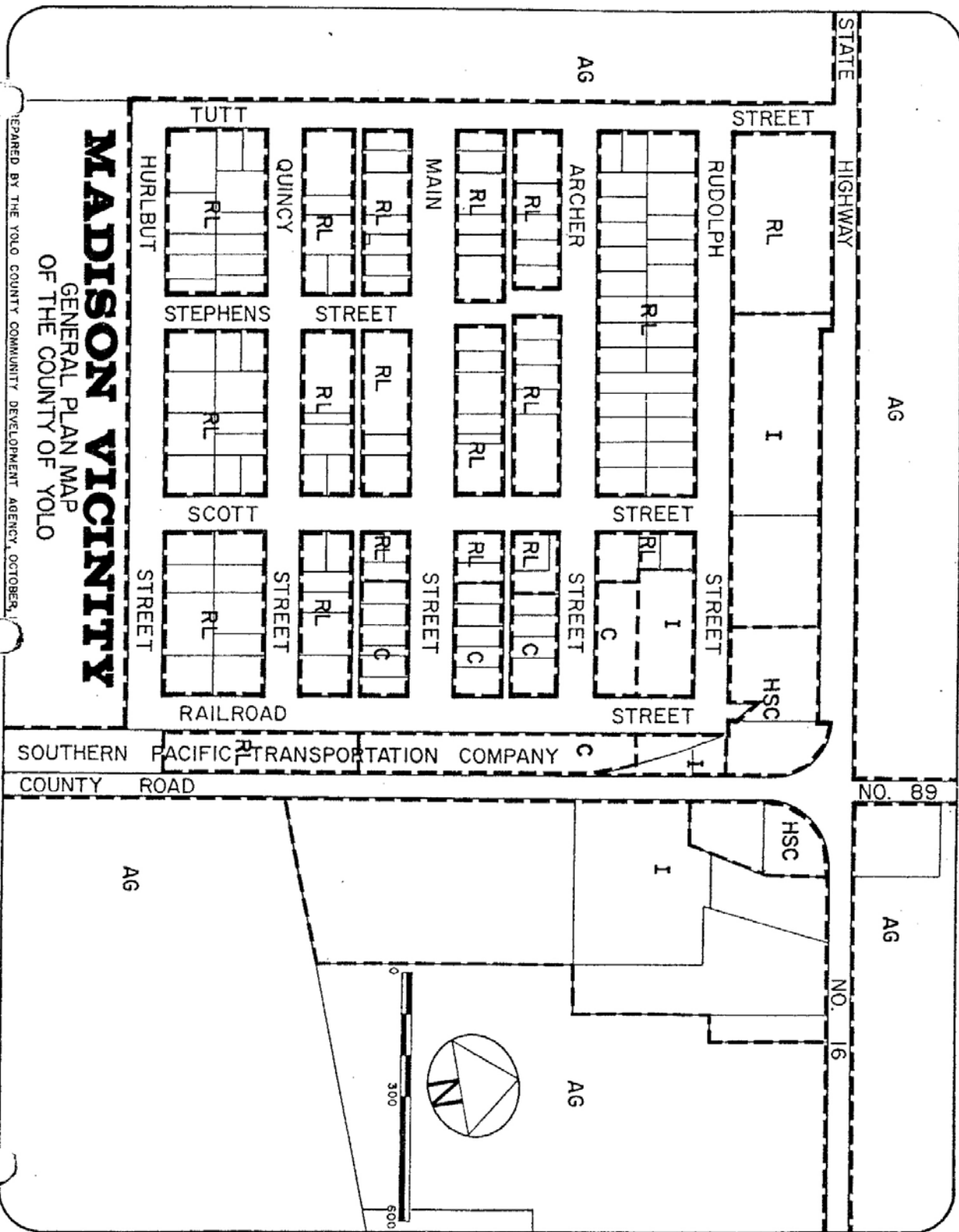
Sincerely,

Jay and Lillian de los Reyes

CC:

Anne Olson, RWQCB

Frances McChesney, Office of Chief Counsel, SWRCB

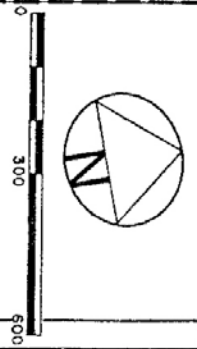


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MADISON VICINITY

GENERAL PLAN MAP
OF THE COUNTY OF YOLO

SOUTHERN PACIFIC RAILROAD
COUNTY ROAD



STATE HIGHWAY

NO. 89

NO. 16

Madison Community Service District

